

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 IO-13
ACDA-07 SAJ-01 /079 W

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R 061409Z DEC 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 3881

INFO USMISSION USBERLIN

AMEMBASSY BERLIN

AMEMBASSY MOSCOW

C O N F I D E N T I A L SECTION 01 OF 02 BONN 20506

E.O. 11652: GDS

TAGS: PFOR PGOV GW WB GE

SUBJECT: BUNDESTAG QUESTION ON GDR PROTEST ON TRAIN
DAMAGE

REFS: (A) USBER 2529; (B) BONN 19909

BEGIN SUMMARY. IN ANSWERING THE QUESTION IN THE
BUNDESTAG ON COMPETENCE OF THE SENAT FOR DEALING WITH
VANDALISM ON REICHSBAHN PROPERTY IN WEST BERLIN, THE FRG
WILL SKIRT THE ISSUE BY POINTING OUT THAT PART OF THE
VANDALISM BY DRUNKEN FOOTBALL FANS BEGAN WHILE THE TRAIN
WAS IN THE GDR, AND THAT THE ISSUE WAS THUS PROPERLY
DISCUSSED IN THE TRANSIT COMMISSION. ALLIED BONN GROUP
REPS HAVE CONCURRED IN THE PROPOSED FRG REPLY.
END SUMMARY.

1. THE QUESTION OF HOW THE FRG SHOULD RESPOND TO THE
QUESTION IN THE BUNDESTAG CONCERNING THE GDR PROTEST
TO THE SENAT ON VANDALISM ON AN INTERZONAL TRAIN (REF B)
WAS DISCUSSED IN THE BONN GROUP ON NOVEMBER 29,
NOVEMBER 30 AND DECEMBER 2. AT THE NOVEMBER 29
MEETING, ALLIED REPS STATED THAT THEY DID NOT YET HAVE
THE NECESSARY INFORMATION FOR RESPONDING TO THE FRG
REQUEST FOR ASSISTANCE IN FORMULATING THE REPLY. UK
REP (HITCH) ADDED, HOWEVER, THAT HE HAD MADE A RENEWED
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REQUEST TO UK MISSION BERLIN AND HOPED TO HAVE INFORMATION SOON. (COMMENT: UK AND FRENCH MISSIONS APPARENTLY SHARED USBER'S VIEW -- REFTEL A -- THAT FRG QUESTION SHOULD NOT BE ANSWERED BECAUSE NORMAL PROCEDURES HAD NOT BEEN FOLLOWED.)

2. FRG REP (HENZE) ADMITTED THAT THE USUAL CHANNEL FOR DRAFTING WAS FROM THE FRG TO THE SENAT BUT SAID THAT BECAUSE THE CURRENT QUESTION WAS PARTICULARLY COMPLICATED THE FRG HAD THOUGHT IT WISE TO CONSULT IN THE BONN GROUP AND WOULD GREATLY APPRECIATE ALLIED VIEWS. HENZE STATED THAT THE FRG DELEGATE TO THE FRG-GDR TRANSIT COMMISSION (TC) HAD IN FACT RAISED THE MATTER IN THE TC AND EXPRESSED REGRET, BUT THERE WAS CONSIDERABLE DOUBT AS TO WHETHER THIS WAS PROPERLY A MATTER FOR THE TC. FRENCH REP (BOISSIEU) COMMENTED THAT THE INTERVENTION OF THE WEST BERLIN POLICE SUGGESTED THAT THERE WAS IN FACT SOME BERLIN COMPETENCE IN THE MATTER.

3. ON NOVEMBER 30, HENZE CIRCULATED IN THE BONN GROUP A DRAFT REPLY TO THE PARLIAMENTARY QUESTION WHICH STATED:

-- THAT COMPETENCE FOR INCIDENTS ON THE TRANSIT ROUTES BETWEEN THE FRG AND BERLIN RESTED WITH THE TRANSIT COMMISSION AND THAT THE FRG DELEGATION HAD TAKEN UP THE ISSUE THERE; AND

-- FOR INCIDENTS ON S-BAHN AND REICHSBAHN PROPERTY IN WEST BERLIN, THE GDR SHOULD NOT HAVE DELIVERED A PROTEST TO THE SENAT BUT TO THE ALLIED

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KOMMANDATURA, UNDER WHOSE AUTHORITY THE POLICE OF WEST BERLIN AND THE REICHSBAHN POLICE WERE RESPONSIBLE FOR MAINTAINING PUBLIC SAFETY AND ORDER.

4. ALL THREE ALLIED REPS EXPRESSED MISGIVINGS ABOUT THE SECOND ELEMENT OF THE PROPOSED REPLY AND URGED THE FRG TO DROP THE SUGGESTION THAT THE GDR SHOULD HAVE PROTESTED TO THE SENAT. THE UK LEGAL ADVISER (CHAMBERLAIN) POINTED OUT, HOWEVER, THAT IT WOULD BE UNFORTUNATE TO IMPLY THAT THE TRANSIT COMMISSION MIGHT HAVE COMPETENCE FOR ANYTHING HAPPENING INSIDE BERLIN. HENZE AGREED THAT THE FRG WOULD CONSIDER THE MATTER FURTHER.

5. ON DECEMBER 2, HENZE REPORTED THAT ON FURTHER INVESTIGATION IT HAD BEEN ASCERTAINED THAT RIOTING HAD BROKEN OUT ON THE TRAIN LONG BEFORE THE TRAIN REACHED BERLIN AND THAT PART OF THE VANDALISM AT LEAST OCCURRED WHILE THE TRAIN WAS ON GDR TERRITORY. HE DISTRIBUTED A FOREIGN OFFICE MEMORANDUM SETTING OUT THE FACTS OF THE CASE AND NOTING THE DIFFICULTY OF ANSWERING THE QUESTION OF WHETHER THE TRANSIT COMMISSION WAS COMPETENT FOR EVENTS OCCURRING INSIDE BERLIN. IT SUGGESTED THAT THIS ISSUE MIGHT BE LEFT CONFIDENTIAL

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OPEN IN VIEW OF THE FACT THAT THERE WAS TC COMPETENCE IN THIS PARTICULAR CASE BECAUSE THE DIFFICULTIES STARTED ON GDR TERRITORY. THE FOREIGN OFFICE HAD PROPOSED THE FOLLOWING ANSWER TO THE INTERPELLATION, AND ALLIED REPS EXPRESSED NO OBJECTION TO IT:

BEGIN TEXT

RIOTING HAD ALREADY STARTED WHEN THE TRAIN WAS STILL ON GDR TERRITORY. ACCORDING TO THE TRANSIT AGREEMENT, OCCURRENCES IN RAILROAD TRAFFIC ON THE TRANSIT LINES BETWEEN THE FEDERAL REPUBLIC

OF GERMANY AND BERLIN (WEST) HAVE EXCLUSIVELY
TO BE DEALT WITH BETWEEN THE FEDERAL REPUBLIC
OF GERMANY AND THE GDR. THIS IS WHY THE
DELEGATION OF THE FEDERAL GOVERNMENT, IN THE
MEETING OF THE TRANSIT COMMISSION ON
NOVEMBER 25, 1976, TOOK UP AND REGRETTED THE
RIOTING BY SOCCER FANS ON NOVEMBER 6, 1976. IT
ALSO POINTED OUT TO THE GDR DELEGATION THAT
ONLY THE TRANSIT COMMISSION PROVIDED FOR IN
ARTICLE 19 OF THE TRANSIT AGREEMENT IS

INCOMPETENT FOR THE CLARIFICATION OF DIFFICULTIES/
DIFFERENCES OF VIEW IN THE IMPLEMENTATION OF THE
TRANSIT AGREEMENT.

THE FEDERAL GOVERNMENT DOES NOT EXCLUDE THE
POSSIBILITY THAT THE GDR PROTEST AIMS AT MAKING
BERLIN RATHER THAN THE FEDERAL
GOVERNMENT THE BEARER OF RIGHTS AND
RESPONSIBILITIES RESULTING FROM THE TRANSIT
AGREEMENT. THE REACTION OF THE DELEGATION OF
THE FEDERAL REPUBLIC OF GERMANY IN THE MEETING
OF THE TRANSIT COMMISSION ON NOVEMBER 25, 1976,
TOOK THIS POSSIBILITY INTO ACCOUNT.

ALTHOUGH RIOTING BY SOCCER FANS HAS RECENTLY
BECOME A UNIVERSAL PROBLEM FOR PUBLIC SECURITY
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AND ORDER, THE FEDERAL GOVERNMENT IS OF THE
OPINION THAT THE TRANSIT TRAFFIC SHOULD POSSIBLY
BE KEPT FREE FROM SUCH OCCURRENCES. THIS IS
WHY COMPETENT LEGAL AUTHORITIES ARE ENDEAVORING
TO START THE REQUIRED LEGAL ACTION AGAINST
DISTURBERS. THIS WAS ALSO POINTED OUT BY
THE DELEGATION OF THE FEDERAL GOVERNMENT IN THE
MEETING OF THE TRANSIT COMMISSION ON
NOVEMBER 25, 1976. END TEXT.
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